

## **4.11 HAZARDOUS MATERIALS**

### **4.11.1 Regulatory Setting**

#### ***Federal Regulations***

A variety of laws and regulations governing the management and control of hazardous substances have been promulgated to protect the environment. These regulations fall under the jurisdiction of the U.S. Environmental Protection Agency (EPA). Some of the more important federal laws are listed below.

- The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or Superfund, creates national policy and procedures to identify and clean up sites where hazardous substances have been released into the environment and provides the mechanisms by which these remedial actions are financed. Additionally, the Superfund Amendment and Reauthorization Act (SARA), which extended and amended CERCLA, required that due diligence be exercised in the investigation of past and current handling of hazardous substances prior to property sale.
- The Resource Conservation and Recovery Act (RCRA) was enacted in 1974 as the first step in regulating the potential health and environmental problems associated with solid hazardous and non-hazardous waste disposal.
- The Toxic Substances Control Act (TSCA), enacted in 1976, regulates and controls harmful chemicals and toxic substances in commercial use, in particular, polychlorinated biphenyls (PCBs).
- The Federal Insecticide, Fungicide, and Rodenticide Act (as amended) controls the manufacture, use, and disposal of pesticides and herbicides.
- The Hazardous and Solid Waste Act (HSWA) includes the 1984 amendments to RCRA to address gaps in the area of highly toxic wastes.
- 29 CFR, Part 1910 — contains the Occupational Safety and Health Administration (OSHA) requirements for workers at hazardous waste sites including emergency response, hazard communication, and personal protective equipment.

#### ***State and Local Regulations***

California has developed hazardous waste regulations that are similar to the federal laws, but that are much more stringent in their application. The basic law established in California, similar to RCRA, is the Hazardous Waste Control Law. More detailed information concerning the implementation of these requirements is given in Title 22 of California Code of Regulations (CCR), Chapter 30. The Hazardous Waste Control Law (HWCL) empowers the Department of Toxic Substance Control (DTSC), a division of Cal-EPA (formerly part of the Department of Health Services), to administer the state's hazardous waste program and implement the federal program in California. This law includes underground storage tank (UST) regulation.

Other relevant state laws include the following:

- Proposition 65, which focuses on carcinogenic or teratogenic contaminants and executes the state's community-right-to-know program.
- Underground Tank Law that regulates underground storage to prevent groundwater contamination.
- Porter-Cologne Water Quality Control Act, adopted in 1969, that requires the maintenance of the highest reasonable quality of the state's waters. It authorizes the Regional Water Quality Control Board (RWQCB) to supervise cleanup efforts at spill sites that have affected groundwater.

## Hazardous Materials

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The DTSC has the primary responsibility for enforcement and implementation of hazardous waste control laws in the State of California. However, this responsibility is shared with other state and local government agencies, including the State Water Resources Control Board (SWRCB), (RWQCB), and city and county governments.

### 4.11.2 Existing Conditions

#### *Channel Widening Plan and Bypass Channel Plan*

The environmental analysis for the Bypass Channel Plan (ESI 1994) presented an inventory of contaminated sites within the feasibility study area, obtained from a review of regulatory agency files. This initial list identified 13 sites that have the potential to impact the project area. Each of these sites is located by reach as follows: Reach 7 (three sites); Reach 8 (no sites); Reach 9 (one site); Reach 10 (one site); Reach 11 (one site); and Reach 12 (seven sites). Six of the releases were determined to have the potential to impact the feasibility study area. Nine of the sources of contamination were identified as leaking underground storage tanks (LUSTs) while two surface spills, one a leaking sump, and one unknown source. The primary contaminants released included gasoline and diesel. Other contaminants consisted of chlorinated hydrocarbons, aromatic hydrocarbons, waste oil, and solvents.

A subsequent assessment of potentially contaminated properties along the project right-of-way (ROW) was conducted in two phases. A Project Area Review Report and a Preliminary Site Assessment Report were completed by Kleinfelder in January and August of 1992, respectively. The completed assessment identified 24 sites within 500 feet of the Bypass Channel Plan study area that were designated as having a "high" potential for hazardous waste contamination. The review included the following: evaluation of regulatory agency files and contaminated site lists to identify contaminated sites within 0.5 mile of the project alignment; Sanborn Fire Insurance maps and historic aerial photographs to identify past usages of properties within 500 feet of the project alignment; and conducting a site reconnaissance of known releases and other areas of concern within the construction corridor. The approximate location and a summary of the sites identified as high potential for contamination are included in Appendix J.

As a follow-up to the initial or Level I investigation, Kleinfelder performed a Phase II (more intensive) investigation of selected properties along the Guadalupe River ROW. The scope of work for this study included soil and groundwater sampling at 16 individual parcels, embankment soil and river sediment sampling at ten specified locations, and random soil sampling at selected location of proposed bypass channels and island banks. The results of the Level II investigation identified six areas of concern along the feasibility study area corridor. A brief description of each of these areas is provided below (Kleinfelder 1995).

#### *Reach 7*

- **Santa Clara County property, Willow Street and Lelong Avenue** — Approximately 89 cubic yards of soil below a storm drain outfall pipe contain hazardous concentrations of Chlordane (an organochlorine pesticide), DDT, and concentrations of Dinoseb (a chlorinated herbicide).
- **Caltrans property and Lee's Diesel Service, 1125 Lelong Avenue and 450 Willow Street, and Bruzzone Property, Paramount Roofing and Multiple Businesses, 1127 Lelong Avenue and 456 Willow Street** — A plume of petroleum hydrocarbon contamination has impacted soil and groundwater beneath these three parcels. The estimated volume of soil impacted is 16,400 cubic yards. The extent of the groundwater contamination was not assessed as part of the investigation.
- **Elk's Lodge** — Concentrations of mercury at hazardous waste levels were detected in the upper 5 feet of soil across the site.

#### *Reach 9*

- **Golden State Builder Farr Construction, 1891 Almaden Road** — Review of historical aerial photographs showing industrial activity identified these parcels as areas of potential concern. Access was denied Kleinfelder field investigators during the Level I and Level II investigations.

*Reach 10*

- **Valley View Packing Company** — This site contains a documented fuel release and some pesticide contamination in shallow soil. The volume of soil impacted by pesticide contamination is estimated at 4,720 cubic yards. The petroleum contaminated soil volume is estimated at 5,000 cubic yards.

*Reach 12*

- **Agricultural lands** — This area, proposed for biological habitat restoration, has elevated soil concentrations of metals and pesticides below hazardous waste thresholds. However, mercury and pesticide concentrations in the soil exceed the guidelines established by the RWQCB for "cover" but not "non-cover" wetlands use. Nickel and silver concentrations exceed the guidelines for cover and non-cover soils.

**4.11.3 Environmental Effects*****Impact Significance Criteria***

Impacts result from contaminant exposure and subsequent risk to human health or safety. Impacts resulting from project construction or operation that would be considered significant include the following:

- Public exposure to hazardous waste encountered in soils or groundwater from project construction activities.
- Contaminant migration into the river or other sensitive areas due to exposure of subsurface contamination during project construction.
- Project construction or operation inhibiting investigative or remedial actions at known hazardous waste sites within the project alignment.

***Channel Widening Plan***

Known sites of soil and groundwater contamination identified during Level I and Level II site investigations would be remediated in accordance with applicable laws and regulations prior to initiation of construction activities. As evidenced by the large number of potential hazardous waste sites that would be encountered along the Channel Widening Plan alignment, there is the possibility that earthwork activities required for construction of the flood control improvements would encounter previously undiscovered contaminated soils and/or groundwater from releases on properties near the project study area. This could result in contaminant migration or a release of contaminants into the river and subsequent effects on sensitive riparian biota. Unearthing subsurface contamination could also lead to exposure of nearby residents or construction personnel by inhalation, ingestion, or direct contact. There is also the potential for a release to occur during construction from construction equipment fueling and maintenance operations. These impacts would be considered significant but mitigated to insignificance with adoption of a Construction Contingency Plan, including methods to control unknown contaminant discoveries.

***Bypass Channel Plan***

The potential impacts of contamination in the vicinity of the Bypass Channel Plan alignment are similar to those identified above for the Channel Widening Plan alignment. However, the likelihood of encountering previously undiscovered contamination would be greater for the Bypass Channel Plan due to the greater amount of excavation required. Construction is more likely to encroach within contaminated sites on the east, rather than west, side of the river.

***No-Action Alternative***

## **Hazardous Materials**

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The No-Action Alternative would not require urgent abatement of environmental contamination. In most cases, aside from plume migration and detection off site, the main reason for investigating potential contamination is the transfer of property ownership and related liability. Under the No-Action Alternative, there would be no need for SCVWD to acquire properties within the ROW. Environmental contamination of properties within the ROW would be the same as under current conditions.

### **4.11.4 Mitigation Measures**

#### ***Channel Widening Plan***

1. A Construction Contingency Plan shall be developed by the Corps including methods to control potential migration of contamination discovered during construction, as well as safety considerations for on-site construction personnel and the general public. Details of the plan shall include, but not be limited, to the following:
  - a. Procedures for identification of contaminated soil during earthmoving operations.
  - b. Immediate measures to protect workers and the public from exposure to contaminated areas (e.g., fencing or hazard flagging, covering of contaminated soils with plastic, etc.) and prevent migration of the contaminants to the surrounding environment.
  - c. Steps to be taken following initial discovery of contaminated soils. Notification shall be made to the local environmental health officials, SCVWD, and the construction contractor immediately following identification of previously unknown contamination within the construction area.
2. A project-specific remediation plan shall be developed and implemented to reduce contaminant concentrations to acceptable levels and shall contain the following: (a) characterization of the problem, (b) a review of remedial options (i.e., feasibility study), and (c) a detailed plan for implementation of the chosen alternative. Excavation and any other remediation activities necessary shall be consistent with all biology, air quality (dust suppression), cultural resources, and other mitigation measures applicable to the project.
3. As part of construction specifications, procedures for the fueling and maintenance of construction vehicles shall be required to minimize the potential for accidental release of hazardous materials in sensitive areas. This shall include designated refueling and maintenance areas located a minimum of 50 feet from the river corridor.
4. Ongoing remediation projects at hazardous waste sites in the vicinity of the project shall be evaluated and monitored, if necessary, on a case-by-case basis to assure that construction activities do not adversely affect environmental cleanup activities and include a review of site conditions, characterization reports, remedial action plans, and any other site data available regarding existing contamination and remediation efforts.
5. In the vicinity of ongoing site remediation efforts, groundwater monitoring wells shall be constructed adjacent to construction dewatering areas to monitor water quality and groundwater gradient before, during, and after construction to determine construction impacts on nearby site remediation projects.

#### ***Bypass Channel Plan***

The mitigations necessary for the Bypass Channel Plan would be similar to those identified for the Channel Widening Plan. Required mitigation would, however, be dependent upon the location of hazardous waste sites relative to the construction corridor.

### **4.11.5 Unavoidable Significant Adverse Impacts**

Adherence to local and state regulations regarding hazardous waste investigation and remediation and implementation of the mitigations described above regarding nearby hazardous waste cleanup operations would reduce the identified impacts to less than significant levels.

No unavoidable significant impacts associated with either of the flood control alternatives would occur.

## **Hazardous Materials**

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